

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GAZI ABDULHAY, M.D.;	)	
GYNECOLOGIC ONCOLOGY	)	
ASSOCIATES OF LEHIGH VALLEY,	)	Civil Action
INC., trading as Lehigh Valley	)	No. 03-CV-04347
Women's Cancer Center;	)	
ABDULHAY ASSOCIATES, L.P.; and	)	
BETHLEHEM AMBULATORY SURGERY	)	
CENTER, LLC,	)	
	)	
Plaintiffs	)	
	)	
vs.	)	
	)	
BETHLEHEM MEDICAL ARTS, L.P.;	)	
BETHLEHEM MEDICAL ARTS, LLC;	)	
KEVIN T. FOGARTY, M.D.,	)	
Individually and as Managing	)	
Director of Bethlehem Medical	)	
Arts, L.P., and as President	)	
of Bethlehem Medical Arts, LLC;	)	
ROTH MARZ PARTNERSHIP, P.C.;	)	
MARK R. THOMPSON, Individually	)	
and as Vice President of	)	
Roth Marz Partnership, P.C.	)	
	)	
Defendants	)	

O R D E R

NOW, this 31st day of March, 2006, upon consideration of the Motion for Summary Judgment of Defendants Bethlehem Medical Arts, L.P., Bethlehem Medical Arts, LLC and Kevin T. Fogarty, M.D., which motion was filed April 29, 2005; upon consideration of Plaintiffs' Brief in Opposition to Motion for Summary Judgment of Defendants Bethlehem Medical Arts, L.P., Bethlehem Medical Arts, LLC and Kevin T. Fogarty, which brief was filed May 16, 2005; upon consideration of the Motion for Summary Judgment and Brief in Support of Defendants Roth Marz

Partnership, P.C. and Mark R. Thompson, which motion was filed April 29, 2005; upon consideration of Plaintiffs' Brief in Response and Opposition to the Motion for Summary Judgment filed by Defendants Roth Marz Partnership, P.C. and Mark R. Thompson, which brief was filed May 16, 2005; after oral argument conducted before the undersigned on October 6, 2005; and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that the Motion for Summary Judgment of Defendants Bethlehem Medical Arts, L.P., Bethlehem Medical Arts, LLC and Kevin T. Fogarty, M.D. ("Bethlehem Defendants") is granted in part and denied in part.

IT IS FURTHER ORDERED that Bethlehem Defendants' motion for summary judgment on Count Five of plaintiffs' Amended Complaint is granted in part.

IT IS FURTHER ORDERED that plaintiffs' averment that Bethlehem Medical Arts, L.P. breached sections 7.3.4, 8.3 or 26 of its lease with Abdulhay Associates, L.P. is dismissed from Count Five of plaintiffs' Amended Complaint.

IT IS FURTHER ORDERED that Bethlehem Defendants' motion for summary judgment on Count Six is granted in part and denied in part.

IT IS FURTHER ORDERED that defendants Bethlehem Medical Arts, LLC, and Kevin Fogarty, M.D. are dismissed from Count Six of Plaintiff's Amended Complaint.

IT IS FURTHER ORDERED that all claims of plaintiff Gazi Abdulhay, M.D. are dismissed from Count Six of plaintiffs' Amended Complaint.

IT IS FURTHER ORDERED that the averments of plaintiffs Lehigh Valley Women's Cancer Center and Bethlehem Ambulatory Surgery Center, LLC that defendant Bethlehem Medical Arts, L.P. breached sections 7.3.4, 8.3 or 26 of its lease with each of those plaintiffs, are dismissed from Count Six of plaintiffs' Amended Complaint.

IT IS FURTHER ORDERED that in all other respects, Bethlehem Defendants' motion for summary judgment is denied.

IT IS FURTHER ORDERED that the Motion for Summary Judgment and Brief in Support of Defendants Roth Marz Partnership, P.C. and Mark R. Thompson is denied.

BY THE COURT:

/s/ James Knoll Gardner  
James Knoll Gardner  
United States District Judge